

# **EXHIBIT 2**

**THE TURBOTAX TRAP****TurboTax and H&R Block Used “Unfair and Abusive Practices,” State Regulator Finds**

The investigation, which is ongoing, came after a ProPublica series showed that millions of Americans were coerced into paying for tax filing they should get for free.

by Justin Elliott, July 15, 2020, 5:21 p.m. EDT

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TurboTax, H&R Block and other tax prep companies have long engaged in “unfair and abusive practices” to divert consumers to paid products even when they were eligible to file for free, a new investigation by a New York regulator has found.

The investigation by the New York State Department of Financial Services was launched in spring 2019 in response to ProPublica’s reporting on Intuit, the maker of TurboTax, and H&R Block.

The yearlong investigation focused on the companies’ participation in the Free File program, under which they promised the federal government to offer free tax filing options to most Americans. In exchange, the IRS long promised not to create its own tax filing software that would compete with the industry.

“The Free File Program is broken and was exploited by commercial tax preparer companies to drive their own profits at the expense of low-income taxpayers,” Superintendent of Financial Services Linda Lacewell said in a statement. “Consumers who most needed a no-cost simple means to file their taxes were left in the cold.”

Last year alone, more than 14 million Americans paid around \$1 billion to Intuit and other companies for tax prep that they should have gotten for free, according to a Treasury inspector general report.

The DFS, which has imposed significant fines on companies in the past, did not disclose any enforcement action. But a spokesperson told ProPublica its investigation is ongoing. The DFS regulates financial services in New York state. Intuit also holds a license from the agency to be

a money transmitter. The report was released on the deadline for tax filing, which was extended from April to July because of the pandemic.

The report echoes findings from the Senate Permanent Subcommittee on Investigations, which published a report last month assailing the IRS for failing to oversee the Free File program.

The DFS report found that the companies “undermined the [Free File] Program by creating and marketing their own ‘free’ products that directly competed with the Program, with the purpose of upselling customers to pay for their services.”

Investigators uncovered internal Intuit and H&R Block documents touting the effectiveness of marketing “free” options to customers who are then charged to file.

“It’s also important to note that while we are expanding our free offering, there are still opportunities to monetize within the free product,” said an internal H&R Block document from 2017 quoted in the report. One-third of the firm’s customers that year who had begun using a “free” product ultimately paid a fee, the report says.

An Intuit spokesman said the company fully cooperated with the investigation and contested some of its findings.

“Respectfully, TurboTax disagrees with many of the opinions expressed in the DFS report, which are based almost exclusively on out of context snippets of years-old public statements that reflect the simple reality that TurboTax’s Free Edition product is free for taxpayers with simple returns, and that customers who use that free product often return to TurboTax as their taxes grow more complex and select a TurboTax paid product in subsequent years,” the spokesman said in a statement. “This is what ‘monetization’ means. TurboTax prominently and transparently discloses the price of its paid products and is at all times clear and fair with its customers.”

Intuit is fighting lawsuits alleging it tricked consumers into paying for products they could get for free filed by the Los Angeles City and Santa Clara County attorneys as well as by private plaintiffs in federal court. The company has denied wrongdoing.

H&R Block didn’t immediately provide a comment on the report.

In a New York Daily News op-ed published Wednesday along with the report, state Department of Taxation Commissioner Mike Schmidt and Lacewell called for the IRS “to consider a broader solution — the public option. The IRS should develop its own free tax-filing program.” They argued such a program, as exists in many other wealthy countries, “could

be geared towards the kinds of simple, straightforward returns most common among low- and middle-income taxpayers.”

The IRS didn’t immediately respond to a request for comment.

([Here’s ProPublica’s guide](#) to filing your taxes for free this year.)

*Do you have access to information about the tax prep industry that should be public? Email [justin@propublica.org](mailto:justin@propublica.org). Here’s how to [send tips and documents](#) to ProPublica securely.*

*For more coverage, read ProPublica’s [previous reporting on the tax prep industry](#).*

**Justin Elliott**

Justin Elliott is a ProPublica reporter covering politics and government accountability. To securely send Justin documents or other files online, visit our [SecureDrop page](#).

✉ [justin@propublica.org](mailto:justin@propublica.org)   **f** Justin Elliott   **t** @justinelliott

📞 917-512-0223   🔒 Signal: 774-826-6240